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PATENT & TRADEMARK OFFICE

CP/1644
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

JAKOBSEN et al.

SERIAL NO.: 09/560,494

FILED: 28 APRIL 2000

FOR: CD8 AS AN INHIBITOR OF THE CELLULAR IMMUNE SYSTEM

GROUP ART UNIT: 1644

EXAMINER: R. SCHWADRON

ATTY. DKT. NO. 102286.413

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Assistant Commissioner for Patents
Washington, DC 20231

Provisional Response to Restriction Requirement and Request for Reconsideration of Restriction Requirement Under 37 C.F.R. § 1.143

This response is submitted in reply to the Restriction Requirement dated September 18, 2002, for which a response is due on or before October 18, 2002. No fee is believed to be due; however, the Commissioner is authorized to charge any necessary fees to Deposit Account No. 08-0219 to maintain the pendency of the present application.

I. Request for Reconsideration of Restriction Requirement

Under 37 C. F. R. § 1.143, Applicants respectfully request reconsideration of the restriction requirement dated September 18, 2002.

The Examiner restricted the invention as follows:

Group I	claims 1-5	method of treatment, classified in Class 514, subclass 2
Group II	claims 6-13	CD8 and composition containing CD8, classified in Class 530, subclass 395 and Class 424, subclass 184.1
Group III	claims 14 and 15	MHC/peptide complex, classified in Class 530, subclass 806
Group IV	claims 16-19	recombinant method of making a protein, classified in Class 435, subclass 69.1

A restriction requirement is proper when (1) the inventions are independent or distinct as claimed; and (2) there is a serious burden on the Examiner. Applicants respectfully submit that Groups I and II are closely linked and that the examination of these groups together would not pose a serious burden on the Examiner.

To show that the inventions are distinct, the Examiner must show either that (1) there is a separate classification of the claims; (2) a separate status in the art when they are classifiable together; or (3) a different field of search. Applicants respectfully submit that Group I, claims 1-5, and Group II, claims 6-13, are closely related. In particular, Group I is drawn to a method for inhibiting T lymphocyte activity against a target cell by contacting the target cell with a soluble form of a CD8 molecule. Group II is drawn to the composition of a soluble form of a CD8 molecule for use in the method claimed in Group I. A search of the prior art of Group I for the methods of inhibiting T lymphocyte activity would also necessarily encompass a search of the prior art for the CD8 compounds/compositions of Group II. Thus, the prior art for Group I will be the same as the prior art for Group II and there will be no undue burden on the Examiner to examine these two groups together.

For these reasons, Applicants respectfully request that the restriction requirement be revised so that claims 1-13 are examined together in the same group.

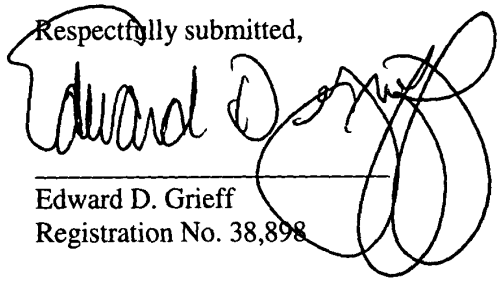
II. Provisional Response to Restriction Requirement

Applicants provisionally elect Group I, claims 1-5, drawn to a method of treatment, with traverse.

III. Conclusion

Applicants respectfully request that the restriction requirement be withdrawn in regard to Groups I and II. An early and favorable consideration and allowance of claims 1-13 is respectfully requested.

Respectfully submitted,



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